

### REMARKS

In an effort to more clearly define the invention so as to overcome the objections and rejections set forth by the Examiner in the Office Action mailed November 18, 2005, Applicant has presented altered claims 12, 15, and 21. Claims 13, 14, 16, 17, 18, 19, 20, 22, and 23 have not changed. Reconsideration of the above-identified patent application is hereby requested.

### **CLAIM OBJECTIONS**

The examiner has objected to claims 12-17 and 21-23 under the appropriate paragraphs of 35 U.S.C. 102 as being unpatentable over U.S. Patent No. 5,588,681 issued to Parks. It is axiomatic that for a reference to be anticipatory, each and every feature in the claims must be disclosed by a single reference. Applicant respectfully submits that Parks does not anticipate the features present in claims 12-23 that facilitate wall penetration of flexible tubing such that the flexible tubing cannot kink inside the wall.

Claims 12, 15, and 21 have been modified to read that when the assembly is installed, "the first open end faces at an upward angle whereby flexible tubing can be installed to transition from the vertical inside the wall cavity to the interior of the sleeve and the second open end faces at a downward angle outside of the wall." Applicant submits that none of Parks' embodiments have the second open end facing at a downward angle outside of the wall. They all show the second open end facing horizontally so that a valve may be attached. This is an important structural difference between the two devices for at least two reasons. First, the present invention resists water intrusion from the outside because of the downward angle of the second open end. Second, the angle helps prevent

the kinking of the flexible tubing. It is interesting to note that Parks includes entirely separate devices (Figures 11 and 12) to facilitate the installation of flexible tubing into the main device. The present invention is specifically designed to be facing a downward angle so that flexible tubing can be installed without kinking and without separate tooling.

Further, claims 12, 15, and 21 have been revised to specify that the present invention can be installed and attached from the inside of the framed walls. All of the Parks embodiments must be installed from the outside of the wall. Even Fig. 8a has a flange 158 that must be installed from the outside. This is an extremely important distinction. A primary advantage of the present invention is to prevent flexible tubing from being kinked while the exterior sheathing is being installed. It must therefore be installed before the exterior sheathing. Parks may prevent the twisting of flexible tubing after a valve is installed but does not prevent kinking during building construction while the exterior sheathing is installed.

With regards to claim 12, it has been revised to include "said attachment plate oriented such that it can be installed with its longitudinal dimension vertical and attached to the surface of the stud in the interior of the wall." The Parks devices cannot be installed completely from inside the wall with screws into the side of a stud.

With respect to claims 13 and 14, by virtue of being dependant on independent claim 12, the embodiment of the invention claimed in claims 13 and 14 also include the structural limitations of claim 12. Therefore, dependent claims 13 and 14 are allowable over Parks for the same reasons asserted above in relation to claim 12.

With respect to claim 15, it has been rewritten to include "said attachment angle oriented so that it can be installed with

its longitudinal dimension horizontal and attached to building sheathing in the interior of the wall." The Parks devices cannot be installed completely from inside the wall where they attach to the interior sheathing.

With respect to claims 16 and 17, by virtue of being dependant on independent claim 15, the embodiment of the invention claimed in claims 16 and 17 also include the structural limitations of claim 15. Therefore, dependent claims 16 and 17 are allowable over Parks for the same reasons asserted above in relation to claim 15.

With respect to claim 21, it has been rewritten to include "said attachment angle oriented such that it can be installed with its longitudinal dimension vertical and attached to building sheathing in the interior of a wall." The Parks devices cannot be installed completely from inside the wall where they attach to the interior sheathing.

With respect to claims 22 and 23, by virtue of being dependant on independent claim 21, the embodiment of the invention claimed in claims 22 and 23 also include the structural limitations of claim 21. Therefore, dependent claims 22 and 23 are allowable over Parks for the same reasons asserted above in relation to claim 21.

In view of the foregoing discussion, Applicant submits that the S 102 rejection is overcome with regards to Parks. Thus, Applicant respectfully requests that the Parks S 102 (b) rejections be withdrawn.

The examiner has also objected to claims 12-17 and 21-23 under the appropriate paragraphs of 35 U.S.C. 102 as being unpatentable over U.S. Patent No. 5,454,197 issued to Horrigan.

The apparatus disclosed in Horrigan is designed to provide a combination plumbing vent and life line anchor. At no point does Horrigan disclose or suggest that the apparatus described

and claimed therein can be used to facilitate wall penetration of flexible tubing. The device is in fact designed to be mounted in a roof assembly. This causes there to be quite a few difference in the physical design of the devices. For example, the Horrigan device has an open end outside the building facing upward. This allows rain penetration if the device is used for the installation of flexible tubing. The present invention has the open end facing downwards in order to resist water infiltration. Further, the elongated sleeve 13 in Horrigan is "a substantially vertical safety stanchion element." U.S. Pat. No. 5,454,197 at 3:3-4. It therefore would be impossible to install where it penetrates horizontally in a vertical wall.

In addition, claims 12, 15, and 21 have been modified to read that when the assembly is installed, "the first open end faces at an upward angle whereby flexible tubing can be installed to transition from the vertical inside the wall cavity to the interior of the sleeve and the second open end faces at a downward angle outside of the wall." The Horrigan device could not be used to install flexible tubing in a wall that transitions from the vertical inside the wall cavity to the outside. If it were installed in a wall, the sleeve would completely penetrate the wall from the inside of the building to the outside but would not go from inside the wall cavity to the outside.

Horrigan also requires "a snug fitting roof collar covering means adapted to be snugly attached to both the roof and the stanchion-element, to cover said roof bore and the space there between" in claim number 1, U.S. Pat. No. 5,454,197 at 4: 21-24. This is for prevention of water intrusion between the sleeve and the building membrane. This is not necessary in the present invention because the sleeve slopes downwards from the building.

The applicant also respectfully submits that Horrigan does not have "an elongated sleeve comprised of a tube or channel having a first side, a second side, an upper side, a lower side, and a first open end opposed to a second open end." The top of 13 cannot be both the upper side and the first open end. This is an important structural difference between the Horrigan device and the devices in claims 12, 15, and 21.

The Horrigan device also has substantially different mounting means than the present invention. The attachment plate 14 does not directly attach to the building. It attaches to another part of the device, which is a combination of sandwich plates 15. This is then attached to two different framing members. One is a beam element 19 and the other is transverse roof support element 18. Therefore the Horrigan device cannot be attached to a stud as in claim 12 nor to the interior sheathing as in claims 15 and 21.

With respect to claims 13 and 14, by virtue of being dependant on independent claim 12, the embodiment of the invention claimed in claims 13 and 14 also include the structural limitations of claim 12. Therefore, dependent claims 13 and 14 are allowable over Horrigan for the same reasons asserted above in relation to claim 12.

With respect to claims 16 and 17, by virtue of being dependant on independent claim 15, the embodiment of the invention claimed in claims 16 and 17 also include the structural limitations of claim 15. Therefore, dependent claims 16 and 17 are allowable over Horrigan for the same reasons asserted above in relation to claim 15.

With respect to claims 22 and 23, by virtue of being dependant on independent claim 21, the embodiment of the invention claimed in claims 22 and 23 also include the structural limitations of claim 21. Therefore, dependent claims 22 and 23 are allowable

over Horrigan for the same reasons asserted above in relation to claim 21.

With regards to claims 18-20, these are "objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Claims 18-20 are dependent upon claim 15. In consideration of the above arguments, applicant submits that claim 15 should be allowable and therefore claims 18-20 as they are written.

In view of the foregoing discussion, Applicant submits that the S 102 rejection is overcome with regards to Horrigan. Thus, Applicant respectfully requests that the Horrigan S 102 (b) rejections be withdrawn.

The examiner also quotes Rogers, Jr. et al U.S. Pat. No. 4,321,726 as a similar coupling common in the art. The applicant submits that the present invention as now claimed is not anticipated by Rogers. Rogers does not prevent the kinking of flexible tubing. It is not comprised of a sleeve. The Rogers device itself is two separate "flat plate elements" but does not have an integral sleeve. The present invention comprises a sleeve that is separate from the flexible tubing to be installed within the sleeve.

The Rogers device also cannot prevent the kinking of flexible tubing. It only seals the area between the tubing and the wall. The flat plate elements are not affixed to the tubing in any way except by squeezing tight to the outside of the tubing in a single plane. This does nothing to prevent the movement of the tubing to prevent kinking.

The Rogers device also cannot be attached to a building stud as in claim 12 of the present invention.

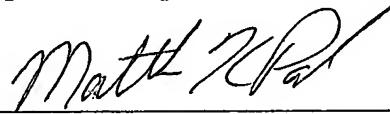
**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

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By:



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